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June 9, 2000

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: CC Docket No. 99-200
Reply Comments of AT&T Corp.

Dear Ms. Salas:

Enclosed for filing on behalf of AT&T Corp. are an original and four (4) copies of "Reply Comments of AT&T Corp." on the Further Notice of Proposed Rulemaking in the above-captioned proceeding. A copy on diskette has been submitted to Jeannie Grimes, Network Services Division, Common Carrier Bureau. We have also enclosed a copy to be date-stamped and returned. Thank you in advance for your assistance.

Best regards,

Elizabeth Dickerson

Elizabeth Dickerson

enclosures

cc: Jeannie Grimes (w/diskette)

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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WASHINGTON, D.C. 20554

In the Matter of)
)
Numbering Resource Optimization) CC Docket No. 99-200

REPLY COMMENTS OF AT&T CORP.

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Numbering Resource Optimization)	CC Docket No. 99-200

REPLY COMMENTS OF AT&T CORP.

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") hereby submits its reply comments on the Further Notice of Proposed Rulemaking in the above-captioned proceeding.^{1/}

INTRODUCTION AND SUMMARY

In the NRO Order, the Commission adopted the framework necessary to begin the difficult process of revamping the administration of the North American Numbering Plan (the "NANP"). AT&T commends the Commission for its extraordinary efforts in addressing the many issues addressed in its first order in this docket and urges it to resolve the issues presented in the NRO Further Notice expeditiously as well.

First, as many commenters urge, the Commission should require carriers to bear their carrier-specific costs associated with implementing number pooling. Requiring carriers to absorb these costs would provide them with incentives to control their expenses and to minimize the costs associated with pooling. In contrast, permitting cost recovery via a Commission-

^{1/} In the Matter of Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, FCC 99-122, CC Docket No. 99-200 (rel. June 2, 1999) ("NRO Order" or "NRO Further Notice").

defined mechanism (or, far worse, through access charges), would give incumbent local exchange carriers (“ILECs”) powerful incentives to inflate their cost claims and to attempt recovery of costs that are not properly attributable to number pooling deployment. Indeed, even a cursory review of the ILEC cost submissions in this proceeding demonstrates that those carriers intend to attempt to recover substantial costs that the Commission unequivocally rejected in the local number portability (“LNP”) proceedings. Moreover, many of the costs the ILECs claim as pooling expenses are already being recovered in the surcharge established for LNP. The Commission’s experience in the LNP docket and the ILECs’ absurd claims in their comments in the instant proceeding make plain that it would be senseless to repeat the onerous task of reviewing ILEC cost studies and tariffs in order to weed out their many patently untenable cost claims. Instead, the Commission should simply require all carriers to bear their own carrier-specific pooling costs (including their portion of shared industry costs).

If the Commission nonetheless determines that it will permit ILEC cost recovery, it must not allow the ILECs to pass these costs on to interexchange carriers (“IXCs”) through access charges. Permitting ILECs to shift their costs in this fashion would not be competitively neutral and would be contrary to the Commission’s long-standing principles of cost-causation.

Second, the Commission should adopt a utilization threshold in the lower end of its proposed 50 to 80 percent range, as recommended by virtually all of the carriers and industry groups participating in this proceeding. A higher threshold would create a significant risk that carriers will exhaust their number inventories -- and be unable to provide service -- before they would be permitted to obtain new codes. Those commenters that propose a higher threshold base their arguments solely on the fact that several state commissions have established utilization requirements of 75 percent. However, their contentions ignore the fact that the NRO Order

requires a new and untested formula for calculating utilization -- a formula that compared to those that have been used previously, significantly overstates "available numbers." Accordingly, existing state numbering trials provide no basis to adopt a higher threshold than industry commenters propose. Indeed, the only evidence in the record indicates that the Commission should set a maximum utilization threshold of no more than 65 percent.

Third, AT&T strongly urges the Commission to give Commercial Mobile Radio Service ("CMRS") carriers a reasonable transition period after achieving LNP capability before requiring them to implement number pooling. Implementing wireless LNP is a massive undertaking and, as many commenters note, CMRS providers will need time to ensure that their networks are operating properly with the addition of national wireless LNP before embarking on pooling deployment.

Finally, the vast majority of commenters correctly conclude that Congress did not grant the Commission the statutory authority to charge for telephone numbers. Virtually all parties agree further that, even if the Commission did have such authority, a market-based allocation scheme would be nearly impossible to implement on a competitively neutral basis, and such a mechanism would not likely promote number resource maximization. The Commission should not pursue such a proposal.

I. THE ILECS' COST ESTIMATES FOR THOUSANDS-BLOCK NUMBER POOLING ARE CLEARLY CONTRARY TO THE STANDARDS ADOPTED IN THE NRO ORDER

The ILECs' comments leave no doubt that they intend to seek recovery of costs far in excess of those that are properly attributable to number pooling implementation. This is scarcely surprising. In the LNP tariffing proceedings, the ILECs repeatedly ignored the Commission's clearly stated requirements and forced both the Commission staff and affected parties to comb

through extensive tariff filings time and again to root out utterly untenable cost claims.^{2/} The Commission can -- and should -- avoid engaging in similarly protracted rounds of reviewing transparently insupportable ILEC claims for recovery of number pooling costs. Instead, as many parties propose, the Commission should simply require carriers to bear their own pooling-related costs.^{3/} Such a course is competitively neutral and would strongly incent the ILECs to control costs, rather than encourage them to make inflated cost claims.^{4/} In the end, consumers would be the true beneficiaries of such a policy, as they will ultimately bear the costs of pooling, whether in the form of higher rates for local services or, if the Commission permits ILECs to recover such costs in access, in increased charges for other services.

AT&T's reply comments do not attempt to offer a comprehensive analysis of the ILECs' cost submissions. Even a cursory recitation of some of the major deficiencies in the ILECs' claims, however, provides ample evidence that their cost studies are deeply flawed, and that they openly flout the cost recovery standards adopted in the NRO Order.

^{2/} See AT&T Comments, pp. 15-16.

^{3/} See Ad Hoc Telecommunications Users Group ("Ad Hoc Group") Comments, p. 17; AT&T Comments, p. 15; Cox Communications, Inc. ("Cox") Comments, p. 8; General Services Administration ("GSA") Comments, p. 10; Joint Comments of Pennsylvania Office of Consumer Advocate, Texas Office of Public Utility Counsel, Missouri Office of Public Counsel, Florida Office of Public Counsel, District of Columbia Office of People's Counsel, California Office of Ratepayer Advocates, The Utility Reform Network, Maryland Office of People's Counsel, Maine Public Advocate, Indiana Office of Utility Consumer Counsel ("Joint Consumer Comments"), p. 38; Missouri Public Service Commission ("MOPSC") Comments, p. 4; New York Department of Public Service ("NYDPS") Comments, p. 4; Time Warner Telecom ("Time Warner") Comments, p. 9.

^{4/} See AT&T Comments, pp. 15-16.

A. Many of the ILECs' Claimed Pooling Costs Are Ineligible for Recovery

Many commenters encourage the Commission to adopt a cost recovery mechanism that prevents the ILECs from recovering costs that are not properly attributable to number pooling deployment. Some are particularly concerned that ILECs will identify as recoverable in this proceeding those costs that were caused by the implementation of LNP (rather than pooling), while others foresee a repeat of the wildly inflated claims the ILECs made in the LNP docket.^{5/} These fears are not groundless. To the contrary, the Commission's recent experience in the LNP tariff proceedings is replete with examples of the ILECs' attempts to recover expenses that did not satisfy the Commission's two-part test to determine eligible costs:^{6/} those that "(1) would not have been incurred by the carrier 'but for' the implementation of number portability; and (2) were incurred 'for the provision' of number portability service."^{7/} The ILECs' comments in the instant proceeding suggest that there is every reason to believe that these criteria -- although set forth plainly in the NRO Order -- will again be ignored.^{8/}

^{5/} See Cox Comments, p. 8 (allocating costs to carriers avoids competitive harm); GSA Comments, p. 10 (noting lack of incentive to reduce costs if allowed to pass-through costs). See also Ad Hoc Group Comments, p. 17; AT&T Comments, p. 17; Joint Consumer Comments, p. 38; MOPSC Comments, p. 4; NYDPS Comments, p. 4; Time Warner Comments, p. 9.

^{6/} Long-Term Number Portability Tariff Filings, Memorandum Opinion and Order, FCC 99-158, CC Docket No. 99-35 (rel. July 16, 1999) ("SBC LNP Tariff Order"), ¶ 40 (noting misapplication or disregard of cost recovery standard requiring disallowances to claimed OSS costs); ¶ 67 (observing Ameritech unjustifiably including signaling and switching costs and Pacific and SWBT including such costs that did not meet two-part test); ¶ 95 (finding overhead costs claimed by Pacific and SWBT unreasonably high).

^{7/} NRO Further Notice ¶ 217, citing In the Matter of Telephone Number Portability Cost Classification Proceeding, Memorandum Opinion and Order, 13 FCC Rcd 24,495, 24,500 (1998) ("LNP Cost Classification Order") (emphasis added).

^{8/} U S WEST, in fact, does not attempt to hide its desire to re-open the cost recovery issues that were settled in the LNP proceedings. See U S WEST Comments, p. 3. Obviously, its enormous pooling cost estimate reflects the rules as U S WEST would have them be rather than as the Commission adopted them in the NRO Order.

The huge variation among the ILECs' cost claims is in itself grounds for skepticism, as the Commission found in the LNP docket.^{9/} While Bell Atlantic's cost estimate of \$80 to \$100 million to implement pooling is unjustifiably bloated, that amount is dwarfed by SBC Communications Inc.'s ("SBC's") estimate of \$221.3 million and U S WEST Communications, Inc.'s ("U S WEST's") purported \$345 million expense.^{10/}

Not only does this variance among the cost estimates suggest the ILECs are not using consistent methodologies, it appears that the bulk of their stated network costs are not eligible for recovery at all. U S WEST, for example argues that it should be permitted to recover the costs of expanding the capacity of its switches to manage more NXXs.^{11/} BellSouth Corporation ("BellSouth") similarly contends that it will be required to "increase the overall call processing capacity of some switches due to the query/response traffic associated with the database lookups to obtain call routing information for calls to pooled or ported numbers."^{12/} These claims are meritless. Number pooling should not appreciably increase LNP query traffic on ILEC networks, because -- even in the absence of pooling -- ILECs are required to query all calls to a particular NXX once any number in that NXX is ported. Thus, the only manner in which

^{9/} In an order on the ILECs' LNP tariffs, the Commission found that the fact that U S WEST's LNP cost claims were so much higher than those of other ILECs was grounds to suspect U S WEST had inflated its claims, Long-Term Number Portability, Memorandum Opinion and Order, 14 FCC Rcd 11983, 11984, ¶ 7 (1999) ("U S WEST LNP Tariff Order").

^{10/} Bell Atlantic Comments, p. 4; SBC Comments, p. 3; U S WEST Comments, p. 4. Although U S WEST includes the costs of state-mandated pooling trials in contravention of the Commission's requirement that "states conducting their own pooling trials . . . develop their own cost recovery scheme" (NRO Order at ¶ 171), this fact alone cannot explain the cost estimate variations, since over \$200 million of U S WEST's costs are network costs. U S WEST Comments, Workpaper 1.

^{11/} U S WEST Comments, p. 5.

^{12/} BellSouth Comments, p. 25.

pooling could increase query traffic would be in NXXs that previously had no porting activity. But even in such NXXs, pooling will not be possible unless portability is already in place, and ILECs presumably have previously designed their signaling networks to handle the query traffic that would result when numbers in those NXXs begin to be ported. The costs associated with these general processing capacity upgrades, then, are properly assigned to portability, not pooling, and should be (or have been) recovered through the LNP cost recovery mechanism.

Nor is it appropriate to permit carriers to recover the costs of accelerating such upgrades. In this regard, BellSouth states that "it will treat the cost of money incurred to advance the upgrades as a fully recoverable cost."^{13/} U S WEST similarly submits that the implementation of number pooling will require it "to advance the time at which it would otherwise install generic software and associated hardware," and it indicates it will seek to recover the costs associated with the acceleration.^{14/} Even assuming arguendo that the ILECs' upgrade claims were otherwise plausible, treating advancement costs in this manner would be directly contrary to the principles the Commission established in its LNP cost recovery proceedings. The LNP Cost Classification Order expressly addressed -- and rejected -- BellSouth's and U S WEST's claims:

As we found in considering what portion of generic upgrades should be eligible LNP costs recoverable through the federal LNP charges, we do not agree that the entire costs of an "advancement" should be recovered as number portability costs, especially where those costs were incurred for software generics switch hardware, OSS, SS7 or AIN. Although the costs of planned upgrades may have been advanced by LNP requirements and LECs would not have deployed the upgrades early "but for" the Commission's portability implementation schedule, the associated upgrades provide general enhancements to the LECs' networks. As

^{13/} BellSouth Comments, p. 26.

^{14/} U S WEST Comments, p. 5.

such, we find that only the incremental portion of such costs directly related to the provision of number portability may be recoverable as eligible LNP costs.¹⁵

Under the Commission's criteria, ILECs may claim only the advancement costs associated with the difference between the costs of the upgrades with pooling functionality and their costs without that functionality -- not, as BellSouth and U S WEST argue, the entire cost of the upgrades.

SBC's claims regarding overhead loadings are also suspect. In the LNP proceedings, the Commission allowed carriers to recover "only those incremental overheads they can demonstrate they incurred specifically in the provision of long-term number portability."^{16/} With regard to number pooling, SBC now estimates its overhead loadings to be 14.6 percent, though it does not provide supporting information to demonstrate whether it derived this estimate using the Commission's LNP standards.^{17/} It is not likely that it did. The fact that the Commission found SBC's LNP overhead costs to be "unjust and unreasonable"^{18/} suggests that further review of its pooling overhead loadings is warranted. Indeed, SBC's high estimate is all too reminiscent of the 15 percent factor it originally claimed for LNP, and which the Commission subsequently required it to reduce to a more reasonable level of 5.84 percent.^{19/}

¹⁵ LNP Cost Classification Order, ¶ 30 (footnotes omitted, emphasis added).

^{16/} Telephone Number Portability, Third Report and Order, 13 FCC Rcd 11701,11740, ¶ 74 (1998)("LNP Third Report and Order") (emphasis added).

^{17/} SBC Comments, p. 3, note 9.

^{18/} Long-Term Number Portability Tariff Filings, Memorandum Opinion and Order, FCC 99-158, CC Docket No. 99-35 (rel. July 16, 1999)("SBC LNP Tariff Order"), ¶ 99.

^{19/} Id. at ¶ 100.

For its part, U S WEST includes in its incredible \$345 million pooling cost estimate numerous “expenses” that are clearly excessive or otherwise unwarranted. For example, U S WEST anticipates it will add nearly two hundred new employees as a result of pooling in the year 2000 alone, and it boldly suggests that the costs of an employee “Rewards and Recognition” program meet the two-part test.^{20/} U S WEST further seeks \$250 thousand for a pooling database that indicates LNP-capable switches (although a PC and a simple spreadsheet program likely would suffice), and requests an untenable \$8 million for project management and \$29million for software.^{21/} U S WEST also expects to recover general number administration costs such as those associated with developing mechanized utilization reporting systems, notifying customers of the 45-day limit on reserved numbers, staff additions to explain the Commission’s new number management rules, and transportation for such employees.^{22/} Because the NRO Order requires all carriers to accommodate these number administration changes regardless of whether pooling is implemented, it is unclear why (aside from its apparent disdain for the Commission’s rules) U S WEST has chosen to include these costs in the recoverable category.

Claimed operations support systems (“OSS”) costs are another indication of the ILECs’ intentions to seek recovery of costs that are ineligible under the Commission’s criteria. Although the Commission plainly rejected ILECs’ efforts to recover certain OSS costs in the LNP

^{20/} U S WEST Comments, Workpaper 2a, pp. 18-19.

^{21/} Id. at Workpaper 3, p. 1; Workpaper 1, pp. 1, 5.

^{22/} Id. at Workpaper 2a, pp. 18-19. Bell Atlantic also claims costs more appropriately assigned to number management activities than pooling implementation. Bell Atlantic Comments, Attachment A, p. 1 (claiming costs of number forecasting systems).

proceedings, this precedent has not stopped them from trying again.^{23/} Attachment A to Bell Atlantic's comments, for instance, identifies various OSS modifications that it alleges comport with the Commission's two-part test for pooling cost recovery. Many do not. In particular, under the Commission's LNP cost recovery orders, the following types of OSS costs must be excluded from recovery: (1) systems that "allow Bell Atlantic reps to access the Bell Atlantic provisioning systems;"^{24/} (2) systems that "allow CLEC reps to access the Bell Atlantic provisioning systems;"^{25/} (3) "maintenance systems;"^{26/} and (4) system changes that "enable Bell Atlantic to bill customers who use pooled-in telephone numbers."^{27/}

BellSouth similarly contends that it should be permitted to recover costs incurred to modify OSS used for, inter alia, "pre-ordering, ordering, provisioning, [and] billing,"^{28/} and U S WEST seeks to recover expenses incurred to modify systems it admits are used for "provisioning," "billing," and "repair."^{29/} Although these OSS modifications arguably would not be made "but for" the implementation of number pooling, they clearly will not be "incurred for

^{23/} LNP Cost Classification Order, ¶ 14.

^{24/} Bell Atlantic Comments, Attachment A, p. 6.

^{25/} Id.

^{26/} Id. at p. 7.

^{27/} Id. at p. 9.

^{28/} BellSouth Comments, p. 27.

^{29/} U S WEST Comments, pp. 8-9. U S WEST also inflates its OSS estimates (and presumably its other cost estimates as well) by including expenses incurred due to state pooling trials. See supra note 8. The NRO Order expressly holds that state commissions are responsible for establishing cost recovery regimes for these trials. See NRO Order, ¶ 197.

the provision of” pooling.^{30/} The ILECs contend that their OSS cost claims meet the Commission’s criteria because “all OSS that use telephone numbers or NXXs will be affected” by number pooling.^{31/} However, this is precisely the argument these parties made -- and the Commission unequivocally and repeatedly rejected -- in the LNP docket:

We recognize that to provide current network functions in combination with number portability functionalities, the incumbent LECs were required to make substantial modifications to their OSS to make existing network architecture compatible with the new number portability components. We also recognize that the existing OSS for billing, maintenance, and repair required modification to allow the incumbent LECs to accept the new number format, or location routing number (LRN), used by ported numbers. We agree with parties opposing the incumbent LECs’ Direct Cases, however, that the incumbent LECs have failed to demonstrate that many of the modifications to their OSS systems meet the second prong of the Commission’s two-prong test; specifically, the incumbent LECs have failed to show that the OSS changes were made ‘for the provision of number portability.’ Stated alternatively, although the incumbent LECs have sufficiently demonstrated that the implementation of number portability has prompted changes to many OSS systems, some costs they claim appear to have been made to modify OSS functions that are incidental to the provision of number portability service.^{32/}

Similarly, in the LNP Cost Classification Order, the Commission stated that:

[T]he only eligible LNP costs are costs carriers incur specifically in the provision of number portability services, such as for the querying of calls and the porting of telephone numbers from one carrier to another. The Commission specifically rejected the proposition that eligible LNP costs include all costs that carriers incur as an incidental consequence of number portability. For this reason, in submitting their tariffs, we require LECs to distinguish clearly costs incurred for narrowly defined portability functions from

^{30/} NRO Order, ¶ 218. To the extent an ILEC seeks to claim other costs related to OSS that do not satisfy the Commission’s two-part test for cost recovery (e.g., costs for personnel used to write code for OSS that do not satisfy that test), those costs are, of course, also not recoverable. See, e.g., BellSouth Comments, p. 29 (claiming costs for employees to write requirements for and to test software).

^{31/} U S WEST Comments, p. 7; see also BellSouth Comments, p. 27 (“The implementation of pooling requires the modification of every system that handles telephone numbers . . .”).

^{32/} SBC and GTE LNP Tariff Order, ¶ 42 (footnote omitted).

costs incurred to adapt other systems to implement LNP, such as repair and maintenance, billing, or order processing systems.^{33/}

The ILECs' comments in the instant proceeding make clear that they intend -- as they did repeatedly in the LNP proceedings -- simply to ignore the Commission's cost recovery rules, and to force the Commission and commenters to weed out their many patently insupportable pooling cost claims in an effort to isolate only those costs that actually merit recovery. All parties could avoid unnecessary costs, administrative burdens, and prolonged and contentious proceedings if the Commission would simply require carriers to bear their own pooling costs. AT&T submits that requiring carriers to bear the cost of number pooling is the best alternative for ratepayers because it offers both a means to eliminate regulatory costs and an incentive for the ILECs to minimize their own network costs. As the NYDPS avers, pooling "should be considered the ordinary cost of business and not entitled to special recovery."^{34/}

B. The Commission Must Not Allow ILECs to Recover Pooling Costs Through Access Charges

If the Commission nevertheless permits ILECs to recover their carrier-specific number pooling costs through a federal mechanism, AT&T reiterates its strong opposition to subsidizing pooling through access charges. Most parties addressing this issue -- including the ILECs -- concur with this view.^{35/} The Competitive Telecommunications Association ("CompTel"), for

^{33/} LNP Cost Classification Order, ¶ 12 (footnotes omitted, emphasis added).

^{34/} NYDPS Comments, p. 2.

^{35/} Bell Atlantic Comments, p. 6; BellSouth Comments, p. 19; U S WEST Comments, p. 2. These ILECs generally support either a small increase in the end user charge currently in place to recover LNP costs, or a modest extension of the period during which the Commission will allow ILECs to impose this end user charge. Although, as stated previously, AT&T urges the Commission to require the ILECs to bear these costs themselves, implementation of an end user charge is a far better solution than allowing recovery of these costs through access charges. See

(footnote continued on next page)

example, notes that Section 254 of the Telecommunications Act of 1996 (“the Act”) prohibits implicit support mechanisms, and that allowing cost recovery through access charges would be counter to the Commission’s principles of cost-based access charges.^{36/} WorldCom, Inc. (“WorldCom”) likewise believes that recovering pooling costs through access charges would put both traditional IXC’s and new competitive LECs (“CLECs”) at a competitive disadvantage.^{37/} Time Warner explains that this cost recovery approach would distort the market for interstate access and would permit the ILECs to recover pooling costs from areas where there are no competitive alternatives for access services.^{38/}

Not only would recovery of pooling costs via access charges fail the statutory requirement of competitive neutrality established in Section 251(e)(2) of the Act,^{39/} it would violate long-standing principles of cost-causation. It makes no sense to place the burden of number pooling primarily on IXC’s in light of the fact that they do not generally have a need for numbering resources and have not caused the demand for pooling.^{40/} While IXC’s use the telephone numbers assigned to their customers to route calls, and thus will derive an indirect

(footnote continued from previous page)

also AT&T Comments, p. 13; CompTel Comments, p. 9; GSA Comments, p. 10; Joint Consumer Comments, p. 40; Time Warner Comments, p. 10; WorldCom Comments, p. 20.

^{36/} CompTel Comments, p. 9.

^{37/} WorldCom Comments, p. 20.

^{38/} Time Warner Comments, p. 10.

^{39/} See AT&T Comments, p. 13, citing LNP Third Report and Order (“Nor would [allowing LECs to recover long-term number portability costs in interstate access charges] be competitively neutral”); WorldCom Comments, p. 20 (“The only non-discriminatory form of cost recovery for ILECs is in end user charges.”).

^{40/} See Sprint Corporation (“Sprint”) Comments, p. 18 (“Like LNP, number pooling is not an access-related service.”).

benefit from pooling, that fact does not warrant a cost recovery approach that forces them to subsidize the ILECs' pooling efforts.

II. THE COMMISSION SHOULD ADOPT A UNIFORM NATIONWIDE UTILIZATION RATE FOR NON-POOLING CARRIERS THAT IS AT THE LOWER END OF THE RANGE PROPOSED IN THE FURTHER NOTICE

In the NRO Further Notice, the Commission proposes to set the initial national utilization threshold for non-pooling LECs to obtain growth codes at 50 percent and increase it by ten percent per year until it reaches 80 percent.^{41/} While AT&T supports the initial 50 percent rate, there is no evidence in the record to justify such a high ultimate threshold. Indeed, as many commenters note, the Commission's decision in the NRO Order to base utilization rates on numbers "assigned" to customers as opposed to numbers that are "available for assignment" significantly overstates the resources in a carrier's inventory that actually can be used.^{42/} This fundamental change in the formula used to calculate the fill rates requires a corresponding adjustment to the fill rates themselves.

Significantly, those commenters that advocate higher thresholds fail to acknowledge that the Commission has altered the utilization calculation.^{43/} Rather, they point to the fact that some

^{41/} NRO Further Notice, ¶ 248.

^{42/} See ALTS Comments, pp. 2-3; AT&T Comments, p. 4; Bell Atlantic Comments, p. 7; CompTel Comments, p. 4; Cellular Telecommunications Industry Association ("CTIA") Comments, p. 9; SBC Comments, pp. 7-8; Sprint Comments, p. 5; Time Warner Comments, pp. 3-4; United States Telecom Association ("USTA") Comments, pp. 3-4; Winstar Communications, Inc. ("Winstar") Comments, p. 7.

^{43/} See Ad Hoc Group Comments, p. 3; CAPUC Comments, pp. 2-6; New Hampshire Public Utility Commission ("NHPUC") Comments, pp. 1-3; Joint Consumer Comments, pp. 12-17; Pennsylvania Public Utility Commission ("PAPUC") Comments, pp. 3-4.

states have adopted 75 percent or higher rates and urge the Commission to follow this lead.^{44/}

However, because existing state utilization requirements use a very different formula than the Commission adopted in the NRO Order, there is no evidence of any kind in the record to support adoption of the 75 percent or higher thresholds some commenters advocate. Attempting to shoehorn the state practices into the new federal framework would undermine carriers' ability to obtain the numbers they need to provide service. In fact, under these circumstances a threshold over 60 percent could force many carriers to exhaust their "usable" inventory long before they can activate new growth codes.

Virtually all commenters also agree that utilization thresholds must be calculated on a rate center basis.^{45/} As the Association for Local Telecommunications Services ("ALTS") points out, so long as numbers are assigned at the rate center level, "the only fair and appropriate factor to use in determining the merits of a carrier's request for additional numbers in a rate center is the carrier's utilization level in that rate center."^{46/} In this regard, there is no merit to the California Public Utilities Commission's ("CAPUC's") suggestion that, for wireless carriers, the threshold could properly be set at both the rate center and the NPA level.^{47/} The fact that a

^{44/} See CAPUC Comments, pp. 3-4; NHPUC Comments, p. 4; Joint Consumer Comments, p. 14; Maine Public Utility Commission ("MEPUC") Comments, p. 4; PAPUC Comments, p. 3.

^{45/} See ALTS Comments, p. 6; Bell Atlantic Comments, p. 8; BellSouth Comments, p. 8; CompTel Comments, p. 5; Joint Consumer Comments, p. 11; MediaOne Group, Inc. ("MediaOne") Comments, p. 3; MOPSC Comments, p. 2; Nextlink Communications, Inc. ("Nextlink") Comments, p. 5; Personal Communications Industry Association ("PCIA") Comments, p. 2; Sprint Comments, p. 8; USTA Comments, p. 4; Verizon Wireless ("Verizon") Comments, pp. 2-3; WorldCom Comments, p. 3.

^{46/} ALTS Comments, p. 7.

^{47/} CAPUC Comments, p. 6.

CMRS provider may have resources available in one rate center is irrelevant to its request for a code in another rate center. Indeed, just like wireline carriers, CMRS providers have to take into account the existing toll structures of the ILECs and assign their customers numbers that ensure that incoming calls are considered local when placed from the same geographic area. Wireless carriers would face serious marketing difficulties if they attempted to sell their services in one area by assigning numbers that reside in a distant rate center.

In addition, as AT&T and others showed in their comments, the Commission should adopt a uniform national utilization rate, and the state commissions should not be permitted to establish state-specific thresholds.^{48/} Those few entities that support state “flexibility” simply contend, without substantive justification, that state commissions should be allowed to respond to varying needs. In this regard, there is no evidence to support some parties’ claims that rural and urban areas require different utilization thresholds. Rural areas typically are not facing exhaust and do not have to contend with a large number of new entrants. Accordingly, even a relatively high threshold in such rate centers is unlikely to have any effect on NPA exhaust. Increasing the threshold in urban areas, however, as explained above, would have a serious impact on the ability of carriers to obtain numbers when they need them.

In advocating a need to respond to different conditions in different parts of their states, these commenters essentially are arguing that utilization thresholds alone may not adequately ensure that numbers are made available only to those carriers that actually require them. This is

^{48/} See AT&T Comments, p. 7; Bell Atlantic Comments, p. 3; BellSouth Comments, p. 7; Nextlink Comments, p. 12; Sprint Comments, p. 9; Winstar Comments, p. 10; WorldCom Comments, p. 3.

true and demonstrates a basic limitation of utilization rates.^{49/} The converse, however, is also true. Specifically, with the use of utilization thresholds, carriers will often find themselves at or near exhaust long before they meet the threshold. This is especially problematic for established carriers, such as CMRS providers, that are experiencing high growth rates and seasonal fluctuations. For these reasons, AT&T and other commenters have encouraged the Commission to adopt a “hybrid” approach that applies a utilization threshold in conjunction with a months-to-exhaust calculation.^{50/} This mechanism would deny resources to carriers that do not need them, despite high utilization rates, and would set up a process for carriers that can demonstrate a need to obtain growth codes even if they have not reached the established fill rate. The state commissions of California, New Hampshire, and Pennsylvania, as well as carriers and consumer groups emphasize that this sort of “imminent exhaust” criterion is crucial to ensure that carriers do not run out of the numbers they need to serve customers.^{51/}

The inability of utilization thresholds adequately to reflect carriers’ number requirements in all cases, however, is not a reason to create the sort of patchwork numbering administration that Congress sought to avoid when it gave the Commission exclusive jurisdiction over

^{49/} As AT&T explained previously, utilization thresholds bear little, if any, relationship to the date on which a carrier should reasonably be expected to need additional numbers. See Numbering Resource Optimization, CC Docket No. 99-200, AT&T Reply Comments, p. 19 (filed August 30, 1999).

^{50/} Id., pp. 20-23. See also, AT&T Comments, p. 5; BellSouth Comments, p. 6; CAPUC Comments, p. 3; CompTel Comments, p. 4; CTIA Comments, p. 11; GTE Service Corp. (“GTE”) Comments, p. 8; Joint Consumer Comments, p. 15; MOPUC Comments, p. 6; Sprint Comments, pp. 2-5; Verizon Comments, p. 9; Winstar Comments, p. 3; WorldCom Comments, p. 2.

^{51/} CAPUC Comments, p. 5; PAPUC Comments, p. 4; NHPUC Comments, p. 4. See also, CompTel Comments, p. 4; Joint Consumer Comments, p. 15; GTE Comments, p. 8; MediaOne Comments, p. 6; PAPUC Comments, p. 4.

numbering in Section 251(e).^{52/} Both the NANPA as well as carriers operating in different states would encounter significant administrative burdens if they were required to comply with a myriad of utilization rates.^{53/} Conversely, as Bell Atlantic notes, one can achieve substantial cost efficiencies by following a single set of rules nationwide.^{54/} There is nothing in the record that provides any countervailing justification for permitting state commissions to adopt disparate thresholds.

III. WIRELESS CARRIERS SHOULD BE GIVEN A REASONABLE TRANSITION PERIOD BETWEEN THE IMPLEMENTATION OF WIRELESS LNP AND POOLING DEPLOYMENT

The comments submitted in this proceeding amply demonstrate that the Commission should provide CMRS carriers additional time beyond the implementation of wireless LNP to participate in number pooling. Parties that oppose any extension generally do so on the ground that there is somehow “enough time” between now and November 4, 2002 for CMRS carriers to implement both LNP and number pooling. These commenters simply observe that the deadline for LNP is over two and a half years away, and argue (without meaningful support) that, given such lead-time, CMRS providers should be able to resolve any technical issues.⁵⁵

These parties, however, fail to recognize the complexity of the situation and do not acknowledge the potential network disruptions that could result from placing still greater

^{52/} See Bell Atlantic Comments, p. 8; Verizon Comments, p. 13.

^{53/} The administrative complexity would be magnified if thresholds were set at any level lower than at a national level. For this reason alone, the Commission should reject any requests to establish NPA-Specific -- or as Bell Atlantic and the USTA suggest -- switch-specific thresholds. Bell Atlantic Comments, p. 8; USTA Comments, p. 4.

^{54/} Bell Atlantic Comments, p. 9.

^{55/} See Time Warner Comments, p. 6; Ad Hoc Group Comments, p. 7; Winstar Comments, p. 12.

demands on CMRS carriers at this critical time. As the Commission has repeatedly found, wireless portability is a huge undertaking, and carriers will require until November 2002 to accomplish it.^{56/} SBC correctly characterizes the endeavor as the “largest, most extensive and ubiquitous upgrade to existing networks in the history of telephony.”^{57/} Unlike landline carriers, CMRS providers must deploy LNP on a national basis to accommodate the mobile nature of the service.^{58/} Moreover, the ubiquity of wireless serving areas resulting from roaming requires that LNP be implemented on a flash-cut basis, rather than on the phased-in and comparatively leisurely schedule the Commission established for landline carriers.^{59/} It should be noted as well that wireline carriers had two and one half years after implementing LNP to deploy pooling.^{60/}

In addition, the unfortunate scheduling of LNP implementation in the midst of the year-end holiday season only further threatens the prospects of a smooth transition. Voicestream appropriately notes that this “quiet period” from November to January is a time when carriers avoid major network changes in anticipation of the expanded subscribership that results from

^{56/} See Nextel Communications, Inc. (“Nextel”) Comments, p. 5; Verizon Comments, p. 24; Sprint Comments, p. 11.

^{57/} SBC Comments, p. 13.

^{58/} See Sprint Comments, pp. 11-12.

^{59/} Verizon Comments, pp. 23-24. As Sprint points out, wireline carriers were required to convert only three NPAs to support LNP in each NPAC per quarter, for a total of 168 NPAs over the course of a two year period. Sprint Comments, p. 14; See also CTIA Comments, p. 15.

^{60/} Voicestream Wireless Corporation (“Voicestream”) Comments, p. 15. See also Nextel Comments, p. 5; CTIA Comments, p. 16 (noting that even those wireline carriers in top 100 markets had nearly four years to resolve technical difficulties associated with LNP and develop pooling standards). In the wireline context, the Commission noted “that initial implementation of this new number portability technology is likely to require more time than subsequent deployment once the technology has been thoroughly tested and used in a live environment.” Sprint Comments, p. 11, citing Telephone Number Portability, First Memorandum and Opinion and Order on Reconsideration, CC Docket No. 95-116, 12 FCC Rcd 7236, 7383-84, ¶¶ 78-79 (1997).

holiday gift-giving.^{61/} Sprint estimates that 30 to 50 percent of its CMRS sales occur during this time,^{62/} placing seasonal demands on the network and further utilizing scarce industry resources.

AT&T has long supported pooling and recognizes the benefits that will accrue from its implementation at the earliest possible date.^{63/} Nevertheless, in the case of wireless operations, the costs of rushing deployment significantly overshadow the benefits. As many commenters observe, CMRS providers are relatively efficient code holders because they can use one block of numbers across several rate centers.^{64/} Therefore, the need to enhance efficiency through pooling is much less critical than in the case of wireline carriers. Moreover, the Commission's decision to require all non-pooling carriers to meet utilization thresholds will ensure that wireless providers do not have the opportunity to warehouse or otherwise squander resources.^{65/}

Sprint succinctly summarizes the situation facing the wireless industry: "It is simply unrealistic to expect that a nationwide conversion of complex technology among hundreds of carriers and thousands of network elements/systems will immediately work flawlessly."^{66/} Any disadvantage of delaying the implementation of wireless pooling is far outweighed by the risks of requiring CMRS carriers to take on all these tasks at once.

^{61/} Voicestream Comments, p. 14.

^{62/} Sprint Comments, p. 12.

^{63/} Other parties correctly note the benefits associated with implementing number pooling, but are unaware, or simply do not acknowledge, the difficulty in an overly-aggressive implementation schedule. See Ad Hoc Group Comments, p. 7; Joint Consumer Comments, pp. 18-19; WorldCom Comments, p. 4.

^{64/} CAPUC Comments, p. 6; CTIA Comments, p. 13.

^{65/} See Verizon Comments, p. 23.

^{66/} Id.

IV. ANY PLAN TO CHARGE FOR NUMBERING RESOURCES WOULD EXCEED THE COMMISSION'S JURISDICTION AND IS MISGUIDED

Commenting parties are virtually unanimous in their opposition to the Commission's proposal to auction or otherwise charge carriers for numbers.^{67/} As a threshold matter, the great vast majority of commenters that address the subject agree that Congress did not grant the Commission the authority to establish such a regime.^{68/} A significant number of commenters also express concern that adopting a charging mechanism for numbers would disadvantage smaller carriers or otherwise create barriers to entry,^{69/} while others note that the proposal would harm consumers.^{70/} And, most parties conclude that charging for numbers would not achieve the Commission's goal of more efficient number utilization.^{71/} The united opposition to the Commission's proposed market based number allocation system and the dubious statutory authority for such a plan strongly suggest that the Commission should not pursue it.

^{67/} Of all parties filing comments in the instant proceeding, only the CAPUC foresees advantages in a pricing mechanism for carrier access to public numbering resources. The CAPUC acknowledges, however that its position is inconsistent with the positions that most states take on this matter. CAPUC Comments, pp. 9-10.

^{68/} AT&T Comments, p. 10, BellSouth Comments, p. 13; CompTel Comments, p. 6; Joint Consumer Comments, p. 30; Cox Comments, p. 5; GTE Comments, p. 11; MediaOne Comments, p. 8; Nextlink Comments, p. 13; PCIA Comments, p. 15; SBC Comments, p. 15; USTA Comments, p. 6; Verizon Comments, p. 23; Winstar Comments, p. 13; Midvale Telephone Exchange, Inc., Northeast Louisiana Telephone Company, Inc., Interstate Telecommunications Cooperative, Inc. and Radio Paging Service Comments, p. 3; Rural Independent Competitive Alliance ("RICA") Comments, p. 2.

^{69/} AT&T Comments, pp. 12-13; ALTS Comments, p. 8; Cox Comments, p. 7; GSA Comments, p. 9; Nextel Comments, p. 7; Nextlink Comments, p. 14; 2nd Century Communications, Inc. Comments, p. 5; RCN Telecom Services, Inc. Comments, p. 2; RICA Comments, p. 2; MOPUC Comments, p. 3.

^{70/} Joint Consumer Comments, p. 28; and Nextel Comments, p. 6.

^{71/} Ad Hoc Group Comments, p. 14; ALTS Comments, p. 8; Bell Atlantic Comments, p. 8; GTE Comments, p. 12; NHPUC Comments, p. 10; PCIA Comments, p. 16; Voicestream Comments, p. 16; and WorldCom Comments, p. 8.

CONCLUSION

AT&T urges the Commission to act on the NRO Further Notice expeditiously and in a manner consistent with the recommendations set forth above and in its initial comments.

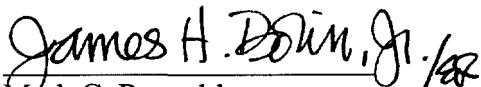
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